2010 Annual Report

Office of the Police Complaint Commissioner

British Columbia

Canada

Office of the
Police Complaint Commissioner

British Columbia, Canada

Speaker of the Legislative Assembly
Suite 207
Parliament Buildings
Victoria, BC V8V 1X4

Dear Mr. Speaker:

It is my honour to present to you and to the members of the Legislative Assembly the 2010 Annual Report for the Office of the Police Complaint Commissioner.

This report has been prepared in accordance with section 51.1(1) of the *Police Act*, RSBC 1996, c.367.

Yours truly,

Stan T. Lowe,
Police Complaint Commissioner

Stan T. Lowe,
Police Complaint Commissioner

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Voices of Change through Mentorship and Outreach

This past year has been tremendously challenging for the OPCC as the revisions to the Police Act came into effect on March 31, 2010. Although we proactively planned and prepared for the implementation of the new amendments, it was difficult to anticipate all of the procedural ramifications contemplated by the new legislation.

In order to meet the challenges associated with the new responsibilities assigned by the legislation, as well as a doubling of the police complaints received as a result of improved accessibility, the OPCC undertook a restructuring of our operations to improve the efficiency and effectiveness of our office. We consolidated our operations into one location in Victoria. We changed the way we conduct our business by dedicating a significant allocation of resources at the front end of the process to conduct comprehensive assessments to determine the admissibility of complaints, a new function for the OPCC. After some fine tuning, all stakeholders are experiencing the benefits of a comprehensive gate keeping process in the front end.

Part of our restructuring plan is the emphasis on increasing the civilian component of our office in positions engaged in decision making. The contribution of our civilian analysts with previous policing experience is invaluable and essential in order for our office to meet its mandate. However, from a public confidence standpoint it is important that we foster a strong civilian component with a non-policing background. I am pleased to advise that the civilian component has increased from 28% to 66% since the time of my appointment. We have recently hired several civilian analysts who will be mentored through a robust in-house training and education program. I am confident that we have struck the necessary balance both in office composition and staffing levels to meet our legislated mandate for the foreseeable future. Our goal remains to seek further gains in efficiency, with a commensurate improvement in the quality of our oversight work.

I am a strong advocate of alternative dispute resolution in appropriate police complaint cases. Informal resolution and mediation provide an opportunity for the parties engaged in a complaint to arrive at a meaningful resolution on their own terms, which promotes a lasting impact on their perspectives for the future. Since becoming Commissioner the number of matters resolved by alternative dispute resolution has increased substantially. I believe there is still room for improvement in the number of cases which can be constructively resolved through dispute resolution and this will remain an important priority for the OPCC.

Over the past year, I have referred several matters to intermediate avenues of adjudication that are now available through the new legislation and received important adjudicative guidance for all stakeholders in the process. As well, the OPCC is currently engaged in a number of judicial reviews involving the interpretation of provisions of the *Police Act*. These reviews are a necessary consequence associated with the introduction of sweeping change to the police complaint process in the recent legislative amendments. Stakeholders have received valuable interpretation and direction from the courts through these reviews, and I anticipate the need for future reviews will diminish significantly once several key interpretive issues are resolved.

In these challenging times for our office, I am fortunate to have the support of a dedicated staff of motivated individuals who all appreciate the importance of our work, and who are committed to ensuring the police complaint process in British Columbia continues to improve and meet the needs of both the public and the policing community.

About the OPCC

statement of purpose

The Office of the Police Complaint Commissioner provides impartial civilian oversight of complaints regarding municipal police. We ensure thorough and competent investigations of police complaints and fair adjudication with respect to all parties. We facilitate quality policing and public trust in law enforcement and the complaint process.

statement of principles

Fairness:

We act fairly, objectively and impartially in our oversight of the complaint process involving municipal police in British Columbia.

Independent Oversight:

As an independent office we serve the public free from any improper influence or interference.

Principled:

We provide vigilant civilian oversight to enhance transparency and accountability while ensuring a principled approach in arriving at decisions.

Commitment to Excellence:

We strive for excellence in our work while maintaining the highest ethical standards.

OPCC's mandate

The Office of the Police Complaint Commissioner (OPCC) is an independent office of the legislature established under Part 9 of the *Police Act* [RSBC 1996] c.367. The OPCC is mandated to ensure that complaints involving municipal police officers and departments in British Columbia are handled fairly and impartially. The Police Complaint Commissioner is independent from all municipal forces and government ministries and reports directly to the BC Legislative Assembly.

The Police Complaint Commissioner does not have jurisdiction over the handling of complaints against members of the Royal Canadian Mounted Police (RCMP). The RCMP has a federal Commission to handle complaints against their members. Complaints received at the OPCC with respect to RCMP members are forwarded to the Commission for Public Complaints Against the RCMP.

Generally, the Police Complaint Commissioner is responsible for overseeing and monitoring complaints, investigations and the administration of discipline and proceedings under Part 11 of the *Police Act*, and ensuring that the spirit and intent of the *Police Act* is achieved.

The Police Complaint Commissioner is **required** by the legislation to:

- Establish guidelines to be followed with respect to the receiving and handling of formal complaints as well as non-registered complaints.
- Establish forms to be used for formal complaints, non-registered complaints and mandatory investigations.

- Establish and maintain a record of each complaint and investigation, including all records.

- Compile statistical information in respect of complaint records, including:
  - demographical information, if available
  - number & frequency of complaints, types or classes of complaints, and the outcome or resolution, and
  - any trends in relation to police complaints.

- Report regularly to the public about complaints, complaint dispositions and the complaint process. Such reports must be published at least annually and posted on a publicly accessible website.

Please visit the OPCC website at www.opcc.bc.ca for statistical reports published 4 times a year

- Develop and provide outreach programs and services to inform and educate the public on the police complaint process and the services provided by the OPCC, with special consideration and attention to addressing the particular informational needs of British Columbia's diverse communities.

- Establish and make available to the public a list of support groups and neutral dispute resolution service providers and agencies that may assist complainants with informally resolving or mediating their complaints

- Inform, advise and assist the public, complainants, police officers, discipline authorities, police boards and adjudicators with the complaint process.

- Accept and consider comments from any interested party respecting the administration of the police complaint process.

- Make recommendations for the improvement of the police complaint process in the Annual Report.

- Establish procedures for mediation and guidelines for informal resolutions of Public Trust complaints.

In addition to the above requirements and powers granted under Part 11 of the *Police Act*, the Police Complaint Commissioner may also do the following:

- Prepare and provide informational reports on any matter related to the functions of the police complaint commissioner.

- Engage in or commission research on any matter relating to the police complaint process.

- Make recommendations to police boards about policies or procedures on factors that gave rise to a complaint.

- Make recommendations to the Director of Police Services or the Solicitor General that a review or audit be undertaken to assist police in developing training or other programs designed to prevent the reoccurrence of problems revealed by the complaint process.

- Make recommendations to the Director of Police Services to exercise one or more of their legislatively appointed functions in relation to a service or policy complaint.

- Make recommendations to the Solicitor General for a public inquiry under the *Public Inquiry Act* if there are reasonable grounds to believe:
    - the issues in respect of which the inquiry is recommended are so serious or so widespread that a public inquiry is necessary in the public interest;
    - an investigation conducted under Part 11 of the *Police Act*, even if followed by a public hearing or review on the record, would be too limited in scope; and powers granted under the *Public Inquiry Act* are needed.
- Consult with and advise contemporaries in other Canadian jurisdictions or within the Royal Canadian Mounted Police.

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jurisdiction

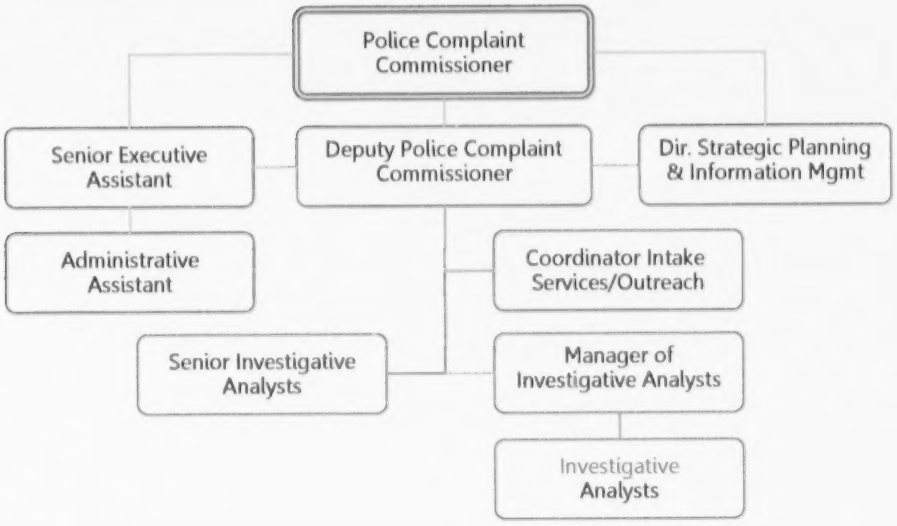
The Office of the Police Complaint Commissioner oversees the handling of complaints against the following police departments:

- Abbotsford
- Central Saanich
- OCABC
- Delta
- Nelson
- New Westminster
- Oak Bay
- Port Moody
- Saanich
- SCBC Transit Police
- Stl'atl'imx Tribal Police
- Victoria
- Vancouver
- West Vancouver

The *Royal Canadian Mounted Police Act* provides a separate process for complaints regarding a member of the RCMP. If you have a complaint concerning the conduct of an RCMP officer, please contact:

The Commission for Public Complaints Against the RCMP
Suite 102, 7337 – 137 Street
Surrey, British Columbia V3W 1A4
Tel: (604) 501-4080 or Toll Free at 1 (800) 665-6878
Webiste: www.cpc-cpp.gc.ca

OPCC structure



the civilian component

The work of the OPCC is unique in comparison to the other Offices of the Legislature. We provide oversight over the profession of municipal policing, which in turn enjoys significant powers over citizens in the enforcement of the law created both federally and provincially.

Not only must we possess a comprehensive understanding of the legislation and complaint process, as do other Offices of the Legislature; but we are also required to go one significant step further as we must possess an expertise in the professional aspects of police operations. This policing expertise includes strategic operations, policy, training and the conduct of all aspects of investigations. In the past, this Office has relied on a significant contribution of retired police officers to fill a void in expertise as it relates to police operations.

Recent Commissions of Inquiry and Review involving police incidents and oversight (Commissioner Davies, Commissioner Braidwood, Ontario Ombudsman Andre Marin) have echoed a common theme, the importance of the "civilian" participation in the oversight and investigation of police involved incidents.

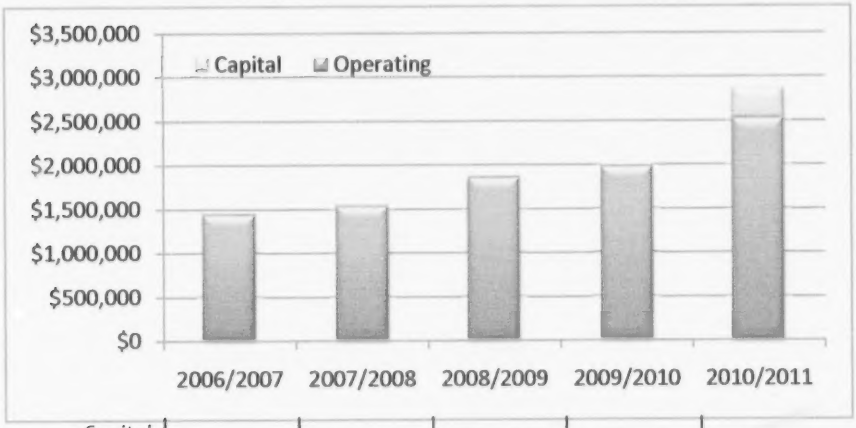
The OPCC will always require staff with policing backgrounds to maintain a knowledgeable base of expertise for oversight purposes. However, the public interest requires that we engage in a restructuring at the OPCC, targeted at increasing the representation of "civilians" on staff-engaged decisive roles. The expertise of staff with policing backgrounds will play a prominent role in the training of these civilian staff members.

On October 6, 2010, the Select Standing Committee approved contingency funding to assist in the OPCC's restructuring strategy, thereby allowing the OPCC to strengthen its organization's civilian component. The OPCC is now composed of over 50% of civilian employees engaged in a decision-making capacity. These civilian employees can assist future Commissioners with their expertise acquired through the intensive in-house

training program we recently developed.

It's the OPCC's hope that by maintaining a staffing level comprised of a minimum of 50 percent civilians, future Commissioners will always be able to draw upon the expertise of those people retiring from the policing community to provide a balanced view towards the process, as well as strengthening the public's confidence by ensuring a healthy civilian component to the process.

OPCC budget



	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011
Capital Budget:	$25,000	$25,000	$25,000	$25,000	$345,000
Operating Budget:	$1,434,000	$1,532,000	$1,853,000	$1,974,000	$2,522,000
FTE's Allotted:	7	8	10	11	13

The Complaint Process in British Columbia

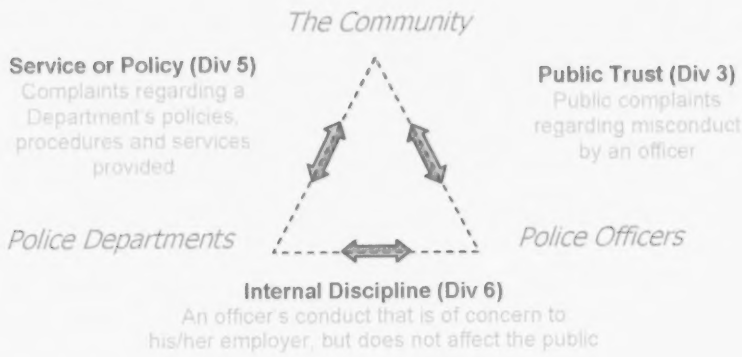
2010 saw significant changes in how complaints against municipal police officers are handled. On March 31st, 2010, amendments to the *Police Act* came into effect, resulting in considerable changes to how complaints against police are received, processed and reported. The amendments were based largely on the recommendations of Mr. Justice Josiah Wood, Q.C., who conducted an extensive review of the previous process and issued his report in February of 2007. The new legislation, while still undergoing the expected growing pains, is well on its way to strengthening the public's and the police's confidence in the system by providing greater oversight capabilities to enhance transparency and fairness.

Complaint files that were opened under the old legislation but not concluded until after March 31st, 2010, are considered to be "transitional" complaints. Wherever possible and appropriate to all participants, they have been concluded pursuant to the new legislation. Accordingly, this report will focus primarily on the new process and, where applicable, will be a blending of both old and new legislation and terminology.

what is a complaint?

A complaint is generally about police misconduct that affects a citizen personally or that he or she witnesses, or is about the quality of the service a police department provides to the community. If the complaint concerns the conduct of an officer, it is handled under the provisions of Division 3 of the *Police Act*. Complaints that involve the services or policies of a department are processed through Division 5.

Performance management issues or employer/employee concerns that do not affect members of the public, are considered Internal Discipline matters and are processed under Division 6.



what is misconduct?

Division 2 of Part 11 of the *Police Act* sets out the various types of conduct that, if proven, would constitute professional misconduct. The *Act* defines professional misconduct as follows:

"**Public Trust Offence**" is a conviction for an offence under the *Criminal Code* or of any provincial enactment, which does or is likely to:

- Render a member unfit to perform his or her duties as a police officer; or
- Discredit the reputation of the department with which the officer is employed.

Or, as per Section 77(1)(b) any conduct that is considered harassment, coercion or intimidation of anyone making a complaint, or hindering, delaying, obstructing or interfering with a *Police Act* investigation, is conduct that constitutes misconduct.

For a complete description of each category, please see s.77(3) of the Police Act.

Any of the conduct set out below constitutes a disciplinary breach of public trust:

Abuse of Authority
Accessory to Misconduct
Corrupt Practice
Damage to Police Property
Damage to Property of Others
Deceit
Discourtesy
Discreditable Conduct
Improper Disclosure of Information
Improper Off-Duty Conduct
Improper Use or Care of Firearm
Misuse of Intoxicants
Neglect of Duty

The *Police Act* also sets out the range of corrective and/or disciplinary measures to be imposed if the misconduct has been proven against the member. The measures include:

corrective & disciplinary measures

- Advice as to future conduct
- Verbal reprimand
- Written reprimand
- Participate in program/activity
- Undertake counselling or treatment
- Undertake training or re-training
- Work under close supervision
- Transfer / reassignment
- Suspension without pay (up to 30 days)
- Reduction in rank
- Dismissal

The complaint process may be initiated by three different routes:

initiating the process

Ordered Investigations
(May be at the request of the Department or by the Commissioner's own initiative)

Mandatory External Investigations
(As a result of serious injury or death while in the care or custody of the police)

Registered Complaints
(Formal complaints submitted by members of the public)

An ordered investigation results when information of potential professional misconduct is received; however, there is no complaint submitted by the individual involved. Between the implementation of the new legislation on March 31st, 2010, and December 31st, 2010, there have been **38** Ordered Investigations (35 at the request of the department and 3 on the Commissioner's initiative as a result of information received).

The *Act* stipulates that all incidents that result in serious injury or death to individuals in the custody or care of the police, or as a result of operations of a department, must be reported to the OPCC and the Commissioner must order an investigation be conducted by an external agency. Between the implementation of the new legislation on March 31st, 2010, and December 31st, 2010, there has been **1** Mandatory External Investigation ordered.

By far the most common method of initiating the complaint process is through complaints received from members of the public. A citizen may submit a complaint regarding an incident in which they were directly involved or witnessed. Between the implementation of the new legislation on March 31st, 2010, and December 31st, 2010, there have been **473** registered complaints received.

admissibility

A new feature in the legislation is the requirement that all registered complaints received must first be reviewed by the OPCC to determine whether they are admissible under Division 3 – Public Trust.

In order for a complaint to be deemed admissible, it must:

- Contain allegation(s) of conduct that, if proven, would constitute misconduct as defined by the *Act*;
- The complaint must be filed within one year of when it occurred; and
- Not be frivolous or vexatious.

Once a complaint has been deemed admissible, it is forwarded to the Professional Standards Section of the originating department for investigation.

informal resolutions & mediations

Depending on the particular circumstances of the complaint, the matter may be suitable for informal resolution. A complaint can only be informally resolved if both the member and the complainant agree to the proposed resolution in writing. The resolution becomes final and binding once it is reviewed and confirmed by the Police Complaint Commissioner.

A complaint may also be suitable for a resolution through the assistance of a professional mediator. Before a file can proceed to mediation, the Commissioner must first approve it to ensure the circumstances are appropriate for mediation. Mediations are completely confidential and agreements reached are final and binding.

discontinued complaints

A complaint that has been deemed admissible may be discontinued if, after further information is obtained, it is established that:

- Further investigation is neither necessary nor reasonably practical;
- The complaint is frivolous or vexatious; or
- The complaint was made knowing it was false or misleading.

investigations

If a complaint file is not informally resolved, or is not appropriate for an informal resolution, and not discontinued, an investigation into the allegations is commenced by a Professional Standards investigator. Investigations into complaints are to be completed within 6 months and both the complainant and subject member receive regular progress reports on the investigation. The OPCC analyst who is assigned to the file will also be contemporaneously monitoring the investigation to ensure they are conducted professionally and address the concerns raised.

Once the investigation is complete, the investigator submits a Final Investigation Report to the discipline authority for a decision. A discipline authority is the Chief Constable of the department, or a senior officer designated by the Chief

Constable. Within 10 business days of receipt of the report, the discipline authority must provide his or her decision to the complainant, the member and to the OPCC. The decision must set out whether the evidence appears to substantiate the allegation of misconduct, and if so, advise of the range of proposed discipline or corrective measures. A prehearing conference may be held, allowing the member the opportunity to admit the misconduct and accept the proposed discipline or corrective measures. If no agreement is reached or a prehearing conference is not held, the matter then proceeds to a discipline proceeding before the discipline authority.

reviews

The complainant may request a review of the file if they disagree with the discipline authority's decision to not substantiate an allegation or if they disagree with the results of a discipline proceeding. A member may also request a review if they disagree with the outcome of a discipline proceeding. Also, if the penalty imposed is dismissal or a reduction in rank, the member is entitled to a public hearing or, if the Commissioner deems it more appropriate, a review on the record.

The OPCC reviews every investigation and decision to ensure the integrity of the process and that the decisions are impartial and fair. If the Commissioner disagrees with a decision, he or she has three avenues of adjudicative review to choose from, depending on the unique circumstances of the matter. The Commissioner may:

appointment of a new discipline authority (s.117)

Appoint a retired judge to review the Final Investigation Report and arrive at a decision whether the allegation is substantiated by the evidence. If the finding is substantiated, the retired judge then takes on the role of discipline authority for the continuation of the process. If the retired judge's finding is that the allegation is not substantiated, the matter is final and conclusive;

arrange a review on the record (s.141)

Following a discipline proceeding, arrange for a review on the record. A retired judge is appointed to conduct a "paper review" of the entire matter and deliver a decision and, if substantiated, the corrective and/or disciplinary measures to be imposed. A retired judge's decision following a review on the record is final and conclusive and may only be appealed on an issue of law;

order a public hearing (s.143)

Following a discipline proceeding, arrange for a public hearing. A retired judge is appointed to sit as the adjudicator and review the evidence, hear sworn testimony and arrive at a decision. Public hearings are open to the public and an adjudicator's decision is final and conclusive and may only be appealed on an issue of law.

Public Hearings Held in 2010

The Police Complaint Commissioner may arrange for a public hearing upon receiving a written request from a complainant, member or former member within 20 business days after the complainant, member or former member has received the Discipline Authority's Decision.

The Police Complaint Commissioner may also arrange a public hearing on his own initiative if he believes the public hearing would preserve or restore the public's confidence in the investigation of misconduct and the administration of police discipline.

Below is a sampling of the Public Hearings that ***concluded in 2010***. Note, a few of these public hearings had commenced under the ***previous legislation***, and they refer to old practices that were in place prior to the March 31, 2010 amendments. For a complete listing and the detailed decisions that were rendered, please refer to the OPCC website (www.opcc.bc.ca).

PH2009-01
Vancouver Police Department

In June of 2007, the OPCC issued an Order for Investigation after receiving information from the Vancouver Police Department regarding a police pursuit that resulted in a fatal motor vehicle accident. *(This public hearing was briefly mentioned in the OPCC's 2009 Annual Report, but at the time of printing, the public hearing had not concluded).* The Discipline Authority after reviewing the Professional Standards' Investigation, found that the Members had adhered to the Department's Regulations and Procedure Manual, the Motor Vehicle Act and current police pursuit guidelines. The Discipline Authority unsubstantiated all the allegations, despite the Managerial Review and the Pursuit Review Board report recommending discipline and training for the Members.

The Commissioner in office in 2007 called a public hearing, which lasted 8 days and spanned over three months. The allegations were that Constable Wong, Constable Chan, Constable Veronesi and Sergeant Herrmann were involved in a vehicle pursuit, despite the pursuit having been called off by their supervisor. The officers were aware that an arrest plan had been established, and these officers failed to abide by their supervisor's order; directive and policy of the Vancouver Police Department. The officers had neglected their duty in failing to work in accordance with these orders.

During the case management conference, Commission Counsel advised that he would only be calling evidence with respect to the allegations against Constable Wong, and on August 25, 2010, an Amended Notice of Public Hearing was issued.

The Adjudicator heard evidence from numerous police officers and after reviewing an agreed statement of facts, and radio communications, the evidence demonstrated that Constable Wong had repeatedly inquired with the chief dispatcher as to whether the Richmond RCMP had been advised of the termination of the pursuit. Constable Wong received a response of "taking care of that." The agreed statement of facts also confirmed that the Richmond dispatcher had informed the Vancouver dispatcher that Richmond would broadcast the pursuit termination. Constable Wong had also spoken to the Richmond dispatcher to confirm Richmond had received this pertinent information. As well, E-Comm and the Vancouver Police Department had policy in place which stated that, "if Vancouver Police Department Members follow a vehicle

involved in a police incident from Vancouver into Richmond, the Chief Dispatcher at E-Comm has the role of communicating details about the incident to the Richmond RCMP; individual officers do not have that role."

The Adjudicator found that there was no connection between Constable Wong's conduct and the tragic fatal motor vehicle accident that later followed. The allegations against Constable Wong were dismissed.

PH2009-03
Victoria Police Department

On January 23, 2008, the OPCC received information from the Victoria Police Department that two Members, Constable O'Neill and Constable Asmussen may have committed the disciplinary default of Abuse of Authority in May of 2005. The information provided alleged that a 15 year old female, Willow Kinloch, was arrested for public intoxication and placed in cells. After being held for four hours Ms. Kinloch was released, but as the officers were unable to contact her parents, Ms. Kinloch was placed back into cells. Ms. Kinloch subsequently claimed that she was tethered to the door, and her hands and feet bound for another four hours.

After reviewing the findings of the investigation, the Discipline Authority determined that the allegations concerning Constable O'Neill and Constable Asmussen were not substantiated. After reviewing the Discipline Authority's decision, the Police Complaint Commissioner requested the Discipline Authority to reconsider his findings based on the Final Investigation Report's failure to address each disciplinary default related to the Members' conduct. The Discipline Authority declined to reconsider, and the Police Complaint Commissioner called a public hearing.

The Adjudicator determined that with respect to the incarceration of Willow Kinloch in the jail cells the allegation of abuse of authority was substantiated against each Member. The adjudicator determined that a written reprimand on the Members' record was the appropriate discipline. With respect to the second abuse of authority allegation regarding the unnecessary force and the two neglect of duty allegations, those allegations remained unsubstantiated. The Adjudicator provided recommendations with respect to the duties of police officers when a youth is in custody; the function of those responsible for the protection of children; and the appropriate use of modified restraint devices.

PH2008-01
Victoria Police Department

On April 23, 2004, Thomas McKay was arrested for being drunk in a public place. During the booking process at the Victoria police station, Mr. McKay was forced to the ground. The force used against Mr. MacKay was described as a "takedown" initiated

by Constable Smith. Mr. McKay required emergency brain surgery and suffered permanent brain damage from his unprotected head hitting the jail's concrete floor. A few days after the event, Thomas McKay's father made a formal complaint concerning the level of force used on his son.

The department conducted an investigation and the Discipline Authority determined that the allegation of Abuse of Authority had not been proven and concluded the investigation as unsubstantiated. After reviewing the decision, the Police Complaint Commissioner called a Public Hearing stating, in part, that the investigation was incomplete.

The hearing heard that Mr. McKay had been arrested and handcuffed for drunk and disorderly behaviour about a half block from the Victoria Police Department. Both Mr. McKay's hands were cuffed behind his back at the scene, and he remained handcuffed when he entered the jail, which was at that time in the charge of two jailers. Mr. McKay was accompanied by the two arresting officers, one being Constable Smith.

The critical issues for the Adjudicator was determining if the takedown was necessary, and if so, was the force used in carrying out the takedown excessive. Taking all the submissions and evidence into account, the Adjudicator concluded that the allegation of Abuse of Authority with respect to using excessive force was substantiated against Constable Smith.

Constable Smith was disciplined with a 3-day suspension and on his own time, he was to follow up with 6 hours of retraining in takedown techniques, and provide use-of-force teaching assistance.

Section 117 Reviews – Appointment of New Discipline Authority if Conclusion of No Misconduct is Incorrect

Pursuant to Section 117(1) If, on review of a discipline authority's decision that a Member's, or former Member's conduct does not constitute misconduct, and the police complaint commissioner considers there is a reasonable basis to believe that the Discipline Authority's decision is incorrect, the police complaint commissioner may appoint a retired judge to a) review the investigating officer's report and the evidence and records contained in that report; b) make her or his own decision on the matter; and c) exercise the powers and perform the duties of the discipline authority.

A complainant may also file a written request with the Police Complaint Commissioner within 10 business days after receiving notification of the discipline authority's review.

Below is a sampling of the Section 117 Reviews that occurred in 2010. The full decisions with regards to these files can be read on the OPCC website under Hearings and Reviews, Concluded Hearings and Reviews.

2009-4718T – Section 117 Review

Abuse of Authority (x2)
Verbal Reprimand/Use of Force Training/Dog Handler Recertification

The Member attended a call of a domestic dispute. The Complainant alleges that during his arrest, the Member used unnecessary and excessive force. Also, the Member's police service dog was used during the Complainant's arrest which resulted in the Complainant sustaining serious dog bite wounds to his lower leg(s) that required medical treatment. The matter was brought to the attention of the department's Professional Standards Section, and a request for an Order for Investigation was submitted to the OPCC.

The incident was investigated and one allegation of Abuse of Authority was substantiated which included the Member striking the Complainant in the head and allowing the police service dog to bite the Complainant's legs.

The Member's agent requested the DA to allow further investigation. The DA rescinded his decision until completion of this further investigation. A supplemental investigation report was submitted to another DA, since the first DA was absent. The second DA unsubstantiated three counts of abuse of authority with respect to the member pushing the Complainant, causing him to fall to the floor; deploying his police dog onto the Complainant, thereby causing puncture wounds; and hitting the Complainant in the head with the palm of his hand.

The OPCC reviewed all the investigation reports and believed that the unsubstantiated second and third allegations were incorrect. The OPCC requested the Associate Chief Justice of the Supreme Court of British Columbia to select a retired Judge to sit as a new Discipline Authority.

The new DA reviewed the Final Investigation Report; the Supplemental Investigation Report, the Notice of Decision from the first and second DA and all other evidence. The new DA could not justify the use of force carried out in the arrest of the Complainant, and found the force to be excessive and unnecessary. During the prehearing conference the Member admitted to the defaults, and he received discipline in the form of a verbal reprimand, use of force training, as well as recertification as a police dog handler.

2009-4716 – Section 117 Review

Discreditable Conduct (x2)
Written Reprimand and Advice as to Future Conduct

The off-duty Member, in the company of his girlfriend, was driving his vehicle southbound on the highway, returning from a dinner and a concert. The Member encountered a sobriety roadblock. The RCMP officer approached the

Member's vehicle, and he detected an odour of alcohol. The Member was submitted to a roadside screening test, and a "warn" reading suggesting a blood alcohol level of 50 to 99 milligrams of alcohol per 100 mls of blood. The Member was issued a 24-hour roadside driving suspension and given the choice of having his passenger drive him home, or have the vehicle impounded. The vehicle was impounded and the Member and his girlfriend proceeded home by taxi.

The OPCC was made aware of this incident and a monitor file was opened to track the progress of this investigation. The Professional Standards Investigator submitted his Final Investigation Report, and upon review, the OPCC learned that the Member may have consumed more alcohol than what he had disclosed in his Duty Report. The Professional Standards Investigator had not clarified the amount of alcohol consumed. The Professional Standards Investigation also revealed that a further potential disciplinary default may have occurred when the Member openly displayed his badge on his lap when he had been stopped at the roadblock. When the department had originally notified the OPCC of this incident, there was no indication of the badge being displayed.

Based on the information contained in the Professional Standards Investigation report, the Police Complaint Commissioner ordered that the alleged misconducts be investigated by an external agency.

The external investigator submitted to the DA and the OPCC his investigation, and based on his assessment of the evidence, the external investigator substantiated two allegations of discreditable conduct being operating a motor vehicle while his ability to do so was affected by alcohol, and displaying his police badge in order to gain favour when stopped at a sobriety roadblock. The DA in his decision confirmed the first allegation, but also determined that the display of police badge had not been substantiated.

After reviewing the DA's decision, the OPCC found a reasonable basis to believe that the DA's decision with respect to the second allegation was incorrect. The Commissioner consulted with the Associate Chief Justice of the Supreme Court of British Columbia to have a retired judge appointed as a new discipline authority. The new discipline authority reviewed the original investigation and the subsequent external investigation. The DA found that there was no need for the Member to display his badge in plain view on his lap, given his stated belief that he had no reason to be concerned that alcohol had affected his ability to drive. The DA also did not accept the Member's explanation that he was doing as he always did when stopped by police, namely, letting the officer know that he was a police officer who did not constitute a threat to the officer on duty.

The DA found that there was sufficient evidence to substantiate both allegations that the Member had operated a motor vehicle while his ability to do so was affected by alcohol, and that the Member had displayed his police badge upon being stopped at the roadside sobriety checkpoint in order to gain favor. At the prehearing conference, the Member received disciplinary or corrective measures in the form of a written reprimand for the 24-hour roadside driving suspension, and he received advice as to future conduct with respect to the displaying of his police badge. The OPCC reviewed the matter and agreed with this resolution reached.

2009-4542T – Section 117 Review
Abuse of Authority (x3)
Training in Tactical Communication; Advice as to Future Conduct; Written Reprimand and Verbal Reprimand

NB: this is a transitional complaint from the old Act into the new Act.

The Complainant, stopped at a red light, noticed a marked police car behind him. This made him uncomfortable, and once he made it through the intersection he pulled over to the side. The two Members noticed the Complainant's vehicle was equipped with fender flares and large wheels. They were also in an area subject to gang violence. When the Complainant pulled over without being signalled to do so, the Members thought this unusual and they pulled in behind him, intending to run a Motor Vehicle Act check. The Complainant got out of his vehicle and walked towards the police vehicle, demanding to know why they were pulling him over. One Member ordered the Complainant to return to his vehicle The Complainant responded with a derogatory comment but did so.

The Members decided it would be safer to deal with the Complainant outside his vehicle, so they called him back. The Complainant alleged that he didn't hear this request. The Complainant further alleged he was grabbed from behind and shoved against his vehicle, and the officers tried to force his arms more than they could flex, and one Member delivered knee strikes to his legs.

The Complainant was arrested and his vehicle searched. Nothing was found. The Complainant was subject to a breathalzyer which resulted in a zero reading. He was then given a ticket for stopping more than 30 cms from the curb and released.

The Complainant filed a Complaint at the police department. The Professional Standards Investigator found that given the circumstances, there were reasonable and justified grounds to stop the Complainant. Relying on a Use-of-Force Report, the Investigator concluded that both Members had detained, arrested, and used unnecessary force. Both Members were found culpable for one count of Abuse of Authority. The Investigator also substantiated an allegation of discreditable conduct with regards to the one Member searching the Complainant's vehicle. The Abuse of Authority allegation pertaining to the detention of the Complainant to provide a breath sample was unsubstantiated, as well as the issuing of the by-law ticket was also found to be unsubstantiated.

The Discipline Authority reviewed the investigation report and he substantiated the allegation against both Members with respect to the unlawful arrest, but he unsubstantiated all the other allegations. The OPCC upon reviewing the investigation and the DA's decision believed that the DA was incorrect in not substantiating the use of force allegation.

The OPCC arranged for a Section 117 Review and a retired Judge was appointed to sit as a new Discipline Authority. The new DA substantiated allegation one, unnecessary force in the arrest of the Complainant against one Member, but he unsubstantiated the allegation with regard to the second Member. With respect to the second allegation of discreditable conduct as it pertains to the search of the vehicle, the DA found that the first Member had no authority to search the vehicle, and he conducted himself in a manner that he knew, or ought to have known would discredit the department. The DA unsubstantiated the allegation of Discreditable Conduct with respect to the issuing of the violation ticket. The Member could have overlooked the matter, but it can be said that he had acted with good and sufficient cause.

The DA substantiated the fifth allegation against both constables for intentionally or recklessly arresting the Complainant.

The corrective and discipline measures imposed during the disciplinary hearing involved both constables undertaking or retaking training in Tactical Communication; a written reprimand for the one Member; a verbal reprimand for both Members; and both Members were given advice as to their conduct.

Informal Resolutions

Under Division 4 the Police Complaint Commissioner may resolve admissible complaints through mediation or other informal means.

The OPCC has had a number of complaint files resolved through mediation. Our statistics show that from the second quarter of 2010 to the fourth quarter of 2010, mediation files have doubled.

After every mediation session, participants are provided with a follow-up survey to complete and return to the OPCC. The comments provided on these follow-up surveys are confidential, and they are not associated with the complaint file. These surveys have been completed by Union Agents, Complainants and their Counsel, as well as Members. Those individuals who completed the surveys, 83% advised that should another police complaint arise, they would be willing to attempt a mediation of that complaint.

Not every complaint file that goes to mediation is successful. In those instances the complaint is returned to the investigative stream and an investigation resumes. In other instances when the Complainant could not agree to the confidentiality agreement, or the Complainant failed to show up for the pre-mediation session, those matters were discontinued. There have also been instances when the Complainant and the member have attended a pre-mediation session, and both parties have elected to informally resolve the complaint, thereby the mediation is cancelled.

Complaint Summaries

The following complaint summaries are intended to provide samples of the variety of complaints that were concluded between January 1st and December 31st, 2010. All substantiated complaints resulting in corrective or disciplinary measures are recorded on the officer's Service Record of Discipline. The summaries below were reviewed and confirmed by the OPCC. "T" in the file number denotes a "transitional" complaint: the investigation was initiated under the previous legislation and concluded pursuant to the current legislation.

2009-4885T
Unauthorized use of Police Facilities
Improper disclosure of information
Substantiated – Written Reprimand

The Member's adult son and son-in-law were the targets of a drug trafficking investigation, which resulted in their eventual arrest.

Concerns were raised because the Member had conducted off-line searches of his family members on PRIME. The department requested an Order for Investigation with respect to these off-line searches.

The Professional Standards Investigator determined that the Member had used the department's equipment and facilities for purposes unrelated to the performance of his duties when he queried his family members. When interviewed, the Member admitted that he had accessed PRIME and CPIC but at no time did he disclose any information he had acquired. The allegation of unauthorized search of CPIC/PRIME was substantiated and the Member received a written reprimand. The investigation could find no evidence to support the allegation of improper disclosure of information; therefore, this allegation was unsubstantiated.

2009-4490T
Discreditable Conduct (x3)
Substantiated – Written Reprimand; Advice to Future Conduct; & 1-Day Suspension
Neglect of Duty (x1)
Substantiated – Written Reprimand

Professional Standards received information alleging that two Members had learned of a domestic assault relating to a mutual friend, but the Members had failed to report the incident. The Members had separately met with one party of the assault prior to the commencement of the RCMP investigation.

The Professional Standards investigation substantiated three out of the four allegations. After a further investigation was conducted, a fourth allegation was also substantiated.

The evidence corroborated that the first Member had overheard a voicemail from his friend depicting a domestic assault occurring. The Member did not report this incident to the police. The public would expect that given the circumstances, the Member would have done so. This allegation of discreditable conduct was substantiated and this Member received a 1-Day Suspension.

The second Member, while on duty, received information that a woman had been assaulted by her husband. The victim was a close friend. This should not have made any difference with respect to the Member reporting the incident to the police. The second Member failed to provide the care and

attention due to the victim. The allegation of neglect of duty was substantiated and the Member received a written reprimand.

With respect to the department's reputation, it must be proven that the second Member's actions had discredited the reputation of his police department. The second Member had received information alleging that his long time friend had assaulted his wife. The Member, while on duty and in full uniform, had attended the couple's residence to check on the welfare of the victim. He met with the alleged suspect, but he did not see the victim. By his own decisions and actions, his attendance placed him in a conflict of interest. This allegation of discreditable conduct was substantiated and the Member received a written reprimand.

It must be proven that the second Member failed to provide a report containing relevant information to the RCMP. The Member provided a report, albeit three weeks after requested, but pertinent information was missing. It is unknown whether this was intentional. The investigation was inconclusive in this regard; however, after further investigation, it was determined that the second Member failed to provide an accurate account of his attendance at the victim's home, and this allegation of discreditable conduct was substantiated. The Member received advice as to future conduct.

2010-5179
Abuse of Authority (x2)
Discontinued

An anonymous call was made to the police about the Complainant, an elderly man, who lives in the downtown eastside. Four ERT (Emergency Response Team) Members attended his residence. When the Complainant opened his door one officer allegedly pointed a shotgun at him and ordered him onto his hands and knees. The Complainant claimed he was forced to crawl six feet, ordered to lie face down, and then handcuffed and searched. His residence was also searched. The Complainant wanted the anonymous caller charged.

Based on the information made available to the officers, the tactics used to take the Complainant into custody were appropriate and consistent with training. The Complainant's age had also been taken into consideration. The Complainant did not suffer any injuries as a result of being ordered to lie on the ground, nor did he allege that officers used unnecessary force when he was handcuffed. By all accounts, the officers who dealt with the Complainant used professional language throughout their dealings with him.

The department determined that further investigation into this complaint would not provide evidence that the officers had conducted themselves in a manner that would constitute a public trust offence. The Professional Standards Investigator attempted an informal resolution, but the Complainant was unwilling to participate in any discussions. Upon the investigator's request, the OPCC discontinued this investigation.

2009-4525T
Improper Off-Duty Conduct
Substantiated: 2-Day Suspension & Counselling/Treatment

A couple witnessed a man drive his truck into the ditch across from their residence. The man exited the vehicle and staggered along the street.

The female resident called the police and as she did so, the man then attempted to remove his truck. The man got out of the vehicle and eventually sat on a bench outside the couple's residence. When the police arrived, he bolted into the couples' backyard. Two officers followed and ordered him to stop. Once he did, he was recognized as a police officer. An odour of liquor emanated from his breath and he staggered.

Another police officer arrived on scene and searched the Member's vehicle. A partly full bottle of rum and a glass containing a clear liquid was found in the console of the Member's vehicle. A Section 215 Motor Vehicle Act 24-hour driving prohibition was read and served on the Member. Another officer drove the Member home.

The Professional Standards department investigated the incident and the evidence supported an allegation of improper off-duty conduct. The Member received a 2-day Suspension and was given direction to attend professional counselling.

"...further external investigation ordered..."

The OPCC having reviewed the circumstances of this investigation determined that a further external investigation was to be conducted by the RCMP into the conduct of the Members who had arrived on scene and initiated the investigation.

The RCMP investigation revealed that the two Members had given preferential treatment to the Member being investigated for impaired driving. When it was determined that the Member was the subject of the impaired driving complaint, the majority of police communications regarding this incident occurred on non-taped police lines. The officers involved arranged for the Member's vehicle to be towed to his home and he was provided with a ride home by members associated with this investigation. As well neither Member took steps to determine if the liquid in the glass found in the console was alcohol. These actions are not in keeping with the usual course of events associated with s. 215 suspensions when involving members of the public.

The RCMP investigation supported the allegations of Neglect of Duty against the two Members who had attended the scene. Prehearing conferences were held and written reprimands were imposed.

2008-4431T
Improper Off-Duty Conduct
Substantiated: 4 Day Suspension

An off-duty Member noticed a male driving erratically and suspected him of impaired driving. The Member called 911. Officers responded to the 911 call and located the vehicle stopped at a red light. When the light changed, the vehicle proceeded through the intersection and the pursuing marked police vehicle reached a speed of 100kmh before catching up to the suspect vehicle.

When the police approached the driver and requested his driver's licence and insurance papers, the driver while removing his wallet, identified himself

as an off-duty police officer. The Member's behaviour, appearance and smell lead the investigating officers to believe that he was impaired by alcohol and his ability to operate a motor vehicle was affected. The Member was read his Charter rights and the Breath Demand and transferred to the police department where he provided two breath samples, one sample reading 130 milligrams of alcohol in 100 millilitres of blood, and the second sample reading 120 milligrams of alcohol in 100 millilitres of blood. The Member was served a driving prohibition and criminally charged with impaired driving, and driving while having in excess of 80 milligrams of alcohol in 100 millilitres of blood. The Member was also given an administrative driving prohibition and a 24-hour prohibition.

The Inpector of the Professional Standards Section requested an Order for Investigation into this matter. A thorough investigation was conducted and the Investigator concluded that the allegation of Improper Off-Duty Conduct was substantiated. The Member had resigned by the conclusion of the investigation. However, the Discipline Authority still issued a Notice of Discipline Authority's Decision confirming the disciplinary default and imposing a 4-Day Suspension.

2009-4935
Abuse of Authority
Summary Dismissal

The Complainant filed a complaint but he did not note any details, other than "unjustified investigating Criminal Harassment." The Complainant believed he had a relationship with a dancer at a local strip club, and the police department was threatening him with criminal harassment charges.

The Professional Standards investigation revealed that the Complainant was a regular client at this strip club, and he had formed a friendship with a dancer. After the dancer had clarified with the Complainant that they were only friends, the friendship deteriorated. The Complainant began sending inappropriate and demeaning emails to the dancer.

The Complainant was banned from the club but he continued contacting the dancer. The dancer spoke with the police department about the Complainant's actions, and a member was assigned to investigate. Based on the evidence gathered, a criminal harassment warning letter was delivered to the Complainant. The Discipline Authority, upon reviewing all the evidence, summarily dismissed the complaint. The OPCC confirmed the summary dismissal.

2009-5013T
Neglect of Duty
Summary Dismissal

The Complainant alleged that when she went to her apartment locker, she found the locker empty. The Complainant contacted the Property Manager to report the missing items and the Property Manager allegedly bullied her. The Complainant then contacted the police. The Complainant alleged that the Sergeant refused to charge the Property Manager, and he informed her that the incident was a civil matter.

The Complainant reported a second theft this time of an extension cord and when she called the department, the male officer who took the call informed her that he could not attend that day.

The third complaint involved another member contacting the Complainant and advising that the Property Manager had not taken items from her. The officer wanted to attend the Complainant's residence with a mental health worker. The Complainant felt that the officer was unprofessional and the department along with the Property Manager were conspiring against her.

With respect to the first theft allegation, the investigator determined that no crime had been committed. The Complainant had been given a letter from the landlord advising that lockers would be cleaned out unless a sticker, that had been provided, was affixed to the locker. The landlord was under the impression that the locker was abandoned, and he disposed of the items accordingly.

With respect to the second allegation that the Member did not assign someone to investigate the theft of an extension cord until the next day, the investigator found that the Member's actions were not uncommon and did not constitute a disciplinary default.

With respect to the third complaint, the Member assigned to investigate the missing extension cord learned that the cord had been stolen a week prior to the Complainant reporting it missing. The supposition that the cord was taken by the building manager was based on the Complainant's intuition.

With respect to the Member being unprofessional, the Member had explained to the Complainant that she did not believe that the manager had stolen the cord and suggested that the Complainant might benefit from seeing a mental health professional. The investigator is of the view that the Member was not only correct in her analysis of the situation but also had a duty to bring these matters to the Complainant's attention. In regard to how the Member conducted herself on the phone, the investigator had interviewed another staff member who was present during the conversation. That staff member asserted that the Member had spoken to the Complainant in a calm and professional manner. All allegations were summarily dismissed.

2009-4606T
Improper Off-Duty Conduct (x2) and Corrupt Practice (x2)
Substantiated: Resignation

The OPCC had been advised that the Member had in his possession questionable electronic images of teenage girls and female police employees. It was further indicated that the Member had retrieved some images from the personal pages of a social media web site using "hacker" type software intended for police investigations. As well, over 70 female names were located at the back of three of the Member's police notebooks. The names appeared to be a tracking mechanism for various persons on the social network site, and eight names had been queried on CPIC and PRIME for reasons unrelated to the officer's duties. The OPCC also learned that the Member had in his possession a large number of video tapes which depicted recordings of teenage girls taken surreptitiously by the Member. The OPCC ordered an investigation into these allegations.

A lengthy investigation ensued and the Discipline Authority found that with respect to the video recordings and the amassing of electronic (digital) images, the allegation of Improper Off-Duty conduct was substantiated. With respect to the use of the department's computers and other property for the mining, disseminating and saving of web site images; and for the listing of names in the Member's notebooks as well as querying names using CPIC and PRIME, the disciplinary default of Corrupt Practice was substantiated.

A Discipline Proceeding was scheduled with respect to these allegations, but

before the Discipline Proceeding could take place, the Member had resigned from the department.

2010-5479
Discourtesy
Discontinued

The Complainant reported that during his arrest, a police officer had addressed him as, "fat boy," and the officer continued to do so while transporting him to cells and during the booking process. The Complainant had asked numerous times for the Member to stop calling him this.

The Complainant filed a Complaint Form with the OPCC. The Professional Standards Investigator investigating this complaint contacted the Complainant, and he was informed that while the Complainant was not seeking an apology, he did want this matter brought to the Member's attention, so in the future the Member would be more compassionate towards overweight youth.

The Investigator spoke to the Member about the incident. The Member acknowledged that what he had said could be perceived as unprofessional. He regretted that he offended the Complainant as he did not mean for his comments to be interpreted in a negative manner.

The Investigator advised the Complainant that he had brought his concerns to the Member's attention. After unsuccessful attempts to have the Complainant sign a Consent to Informal Resolution for completion of this Police Act file, the investigator requested a discontinuance, which was granted.

2008-4381T
Discreditable Conduct
Substantiated: Reduction in Rank;
Improper Disclosure of Information (x2)
Substantiated: Reduction in Rank

Information was received from the department's Deputy Chief Constable that a Member may have leaked information to the media relating to a former Chief. The Deputy Chief would be seeking an Order. As such the OPCC drafted an External Order for Investigation and had another police department conduct the investigation. The Member was suspended during the investigation.

The investigation found with respect to the Member acting in a manner likely to discredit the reputation of the Department, by delivering documents from a third party to a local news station, the Member had committed the Disciplinary Default of discreditable conduct. This allegation was substantiated.

With respect to the disclosure to the media of information concerning former employees' severance agreements, there was insufficient evidence to support this allegation. This allegation was not substantiated.

With respect to the Member improperly releasing information to the media which consisted of a photograph featuring another local business man, there is insufficient evidence to support the allegation, which would have constituted discreditable conduct. There was, however, sufficient evidence to show that the Member had attempted to commit this disciplinary default. Therefore, the allegation of attempting to commit a disciplinary default contrary to s.4(2) of the Code of Professional Conduct Regulation was substantiated.

A Notice of Discipline Proceeding was served on the Member; however, he resigned prior to the discipline

proceeding commencing. The discipline proposed had the Member not retired was a reduction in rank.

2009-4663T
Neglect of Duty
Substantiated: 2-Day Suspension and 6 months Supervision

The Member was assigned to do follow-up in relation to a credit card fraud. This follow-up required the Member to determine what had been purchased on a stolen credit card, obtaining statements from the appropriate business employees, and securing a copy of the store surveillance video.

The Member's Supervisor followed up on the progress of the investigation and determined that the Member had not completed what he had been assigned. As a result, the store surveillance video images for the offence date in question no longer existed. The supervisor also followed up with one of the victims of the credit card fraud who expressed concerns that the police investigation was not progressing as fast as he had hoped.

A *Police Act* investigation was initiated into the Member's handling of the fraud investigation, and the investigation showed that the Member's initial investigative steps were timely and appropriate; however, the outdated email address the Member had provided the victim resulted in the Member not receiving the requested credit card information. The Member believed that the victim had lost interest in giving the police his credit card numbers.

The Member's Supervisor was able to contact the victim, and the victim was willing to participate in the investigation.

Based on the evidence gathered, the disciplinary default of Neglect of Duty was substantiated as it relates to the Member failing to conduct the investigative follow-up that had been assigned to him. The Member was suspended for 2 days and he was given re-training and placed under close supervision for 6 months.

2010-5001
Discreditable Conduct
Summarily Dismissed

The OPCC received a complaint whereby the Complainant alleges that several institutions and a New Westminster police member had committed fraud and grand theft larceny. The Complainant also claims that he is heir to several rich families and suggests that officers of the police department and others are using his accounts to launder money. The member and various institutions have opened accounts in the Complainant's name as well as they have prevented the Complainant from accessing his assets.

The investigation found that there was no connection between the Complainant's allegations and the member named on the Complaint. The investigator could not find any evidence which would lead him to believe that a disciplinary default had occurred. The Complainant named a member, but he does not accuse the member of any wrongdoing.

The Discipline Authority after reviewing the investigation summarily dismissed this public trust complaint, on the basis that it did not have an air of reality. The OPCC confirmed this summary dismissal and closed its file.

2009-4948
Discreditable Conduct
Summarily Dismissed

The Complainant reported that since 1994, police members have on numerous occasions used mind control and have drugged him and searched his residence. The Complainant attempted to write out his complaint, but one officer interfered with his thought processes, making it difficult for him to verbalize his concerns. The Complainant felt that the two officers were skilled in ways others would not understand, and these two officers used these methods in an effort to convict him for something he did not do.

The Investigator conducted an investigation, which involved reviewing the police database and HR records to see if these officers had been utilized from 1994 to 2001. No records were found. These officers were never employed by the department. Veteran officers were queried, and they did not recall a special unit having been formed to investigate persons cheating on welfare as referenced in this complaint.

The Discipline Authority summarily dismissed the complaint, due to the Complainant suffering from a condition that compromises his mental health to the extent that his complaint cannot be viewed as reasonable or having an air of reality. The OPCC reviewed and confirmed the DA's decision and closed its file.

Appendix "A"

Statistical Reports

Introduction

When a complaint is received at the OPCC, a file is opened and assigned to an analyst. All complaints are reviewed by the assigned analyst to determine whether it is admissible pursuant to the *Police Act*, and if so, the complaint is then broken down into its individual allegations. An admissible complaint file often contains more than one allegation, involving one or more officers.

The following is an example of how one complaint file can result in multiple allegations and results:

The Complaint

A Complainant states that 3 officers entered his residence without a warrant and 2 officers used excessive force in order to handcuff him. The Complainant further states 1 officer unlawfully seized property that was subsequently lost.

The assigned analyst would review the complaint and break it down into its individual components or "allegations". The above complaint would likely be broken down into the following allegations of misconduct as defined by the *Police Act:*

The Allegations

Abuse of Authority (unlawful entry) – involving 3 members.

Abuse of Authority (excessive force) – involving 2 members

Abuse of Authority (unlawful seizure of property) – involving 1 member

Neglect of Duty (improper care and handling of seized property) – involving 1 member

Following the investigation, the Discipline Authority may determine that none, some or all the allegations of misconduct have been proven against none, some or all of the officers. Continuing with the example above, the decision may be:

The Decision whether Substantiated

Abuse of Authority (unlawful entry) – Substantiated against officers #1, #2 and #3

Abuse of Authority (excessive force) – Substantiated against officer #2

Abuse of Authority (unlawful seizure of property) – Not substantiated

Neglect of Duty (improper care and handling of seized property) – Not substantiated

The Discipline Authority must then consider the mitigating and aggravating factors unique to each officer and determine the appropriate corrective and/or disciplinary measures to impose. For example:

The Decision on Corrective and/or Disciplinary Measures

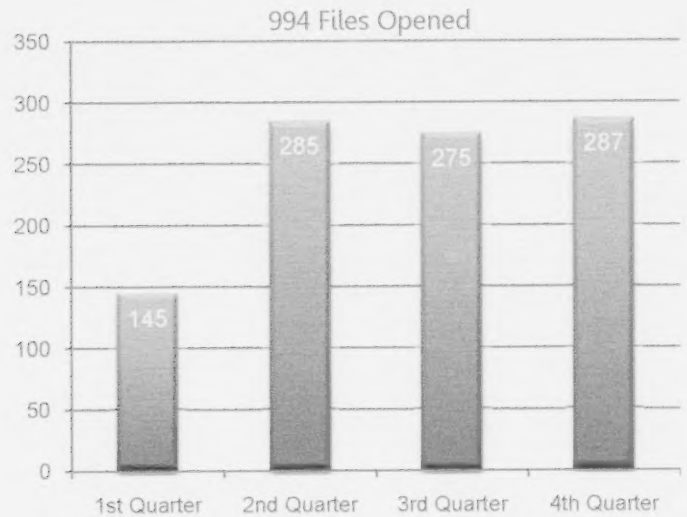
Abuse of Authority (unlawful entry):	Officer #1 – Written Reprimand Officer #2 – Written Reprimand Officer #3 – Additional Training
Abuse of Authority (excessive force):	Officer #2 – 1 day suspension without pay

Blending of old & new legislation

On March 3st, 2010, amendments to the *Police Act* came into effect, resulting in significant changes to how complaints against police are received, processed and reported. Complaint files that were opened under the old legislation but not concluded until after March 31st, 2010, are considered to be "transitional" complaints. Wherever possible and appropriate to all participants, they have been concluded pursuant to the new legislation. Accordingly, the following figures, charts and tables, where applicable, will be a blending of both old and new legislation and terminology.

Please note the data contained in the following report may vary slightly from previous releases. Where differences exist, it can be assumed that the most current data release reflects the most accurate and up-to-date data.

Files Opened in 2010



The number of files in the 1st Quarter was opened under the provisions of the old legislation. The figures for the 2nd, 3rd and 4th Quarters were all opened pursuant to the new legislation.

Types of Files

The files opened by the OPCC in 2010 can be broken down into the following categories:

Registered Complaints are formal complaints by members of the public concerning the conduct of municipal police officers (Division 3). For reporting purposes, Service or Policy (Division 5) and Internal Discipline (Division 6) files are included in this category. This also includes "Police Act" complaints filed under the previous legislation.

Non-Registered Complaints are any oral or written report by a member of the public that raises concerns or questions about the conduct of an officer, but that does not result in the making and registration of a formal complaint. If a non-registered complaint contains allegations of a serious nature, the department may request the Commissioner order an investigation or the Commissioner may order an investigation on his or her own initiative if it is deemed to be in the public interest. Under the previous legislation, these were referred to as "Non-Lodged" complaints.

Ordered Investigations Complaint investigations may be ordered by the Police Complaint Commissioner, whether it is upon the request of a department or as a result of information received from any source that raises concerns about officer misconduct. This also includes mandatory investigations into serious harm or death incidents pursuant to the new legislation.

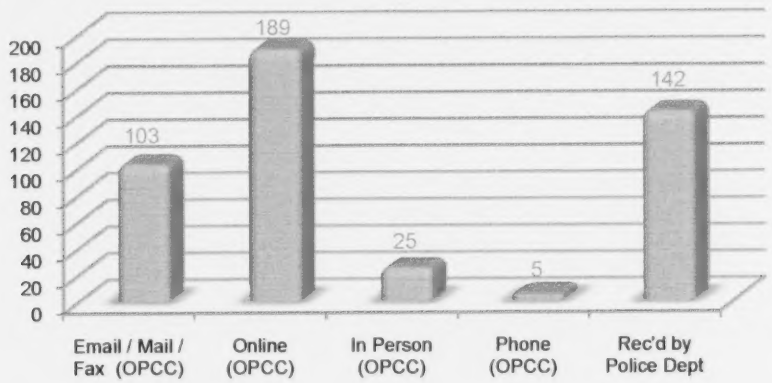
Monitor Files are opened when information is received by the OPCC from the police, including Reportable Injuries, or other sources such as media reports that *may* require an investigation pursuant to the *Police Act*. These are typically incidents that are serious in nature or that have generated media attention, but no potential disciplinary defaults have been identified to date. These files are held open until a report is received from the police. The matter is reviewed and a decision is made as to whether an Ordered Investigation is required. If no action is deemed necessary, the file is concluded as "Reviewed & Closed".

Files Opened by Department
(Includes all categories of files)

Dept	2010	2009	2008	2007	2006	2005
Abbotsford	86	16	28	29	16	14
Central Saanich	4	9	2	3	4	5
BCCFSEU	1	0	0	1	1	0
Delta	57	34	16	16	23	14
Nelson	5	4	8	10	3	1
New Westminster	36	32	45	17	25	20
Oak Bay	13	3	3	2	1	6
Port Moody	23	7	7	3	3	4
Saanich	48	39	35	28	28	35
SCBCTAPS	35	26	28	18	15	n/a
Stl'atl'imx	2	0	1	0	0	1
Vancouver	493	240	214	244	269	220
Victoria	156	103	81	80	98	91
West Vancouver	35	20	13	25	17	15
TOTAL:	**994**	**533**	**481**	**476**	**503**	**426**

How complaints from the public were received

As well as the new legislation coming into effect on March 31st, 2010, the OPCC launched its new website that offered complainants the option of submitting their complaints on-line.



Reportable Injuries & Mandatory Investigations

As of March 31st, 2010, the new legislation requires departments to report all incidents where an individual in the care or custody of the police suffers a "**reportable injury**" that requires medical treatment. These "reportable injuries" are opened as Monitor Files until it is determined whether an investigation will be conducted. In 2010, the OPCC received **97** notifications of reportable injuries; **6** of which are under investigation (as a result of complaints being filed later and 1 incident into which the department requested an ordered investigation). Over 50% of the reportable injuries received in 2010 were as a result of Police Service Dog bites.

Section 89 also states that there must be "**mandatory external investigations**" into incidents resulting in death or serious harm. In 2010, there has been **1** mandatory external investigation ordered.

Reportable Injury Files
(Received between March 31, 2010 and December 31, 2010)

Dept	# of Notifications	Injuries as a result of one or more of the following:					
		Dog Bite	Empty Hand	Weapon	MVA	Self-inflicted	Other
Abbotsford	22	11	7	6	1		
Central Saanich	2	1					1
Delta	1						1
New Westminster	7	1	2		1	2	1
Port Moody	2						2
Saanich	2	2					
SCBCTAPS	5		4				1
Vancouver	41	30	8	2	1	1	1
Victoria	12	4	4			1	3
West Vancouver	3	1	2				
TOTAL:	**97**	**50**	**27**	**8**	**3**	**4**	**10**

"**Empty hand**" refers to injuries as a result of being taken to the ground, knee strikes, punches, etc.
"**Weapon**" refers to injuries as a result of the use of a baton, Arwen, pepper spray, Taser etc, but does not include a firearm
"**MVA**" refers to injuries as a result of a police involved motor vehicle accident

Non-Registered Files

The new legislation also requires departments to keep records of all concerns or questions they receive from members of the public, but do not result in a formal complaint. These records are forwarded to the OPCC for review and tracking purposes. These are referred to as **Non-Registered** files. In 2010, municipal departments forwarded to the OPCC **213** Non-Registered files for review and auditing purposes. Out of these 213 files, **6** have resulted in an investigation.

Non-Registered Files
(Received between March 31, 2010 and December 31, 2010)

Dept	# of Notifications	Concerns relating to one or more of the following:				
		Dept related	Member related	Inquiry	No substance	Other
Abbotsford	16	1	12		2	1
Delta	24	3	18		1	2
Nelson	1		1			
New Westminster	4	1	3			
Oak Bay	3		3			
Port Moody	7	1	3	1		2
Saanich	4		4			
SCBCTAPS	2		2			
Vancouver	102	26	55	5	9	7
Victoria	45	8	35		1	1
West Vancouver	5	1	4			
TOTAL:	**213**	**41**	**140**	**6**	**13**	**13**

Admissibility

One of the significant changes to the complaint process is the requirement that ALL registered complaints received from the public must be reviewed by the OPCC to determine whether it is an "Admissible" complaint under the Act. In order for a complaint to be considered admissible, it must:

- ✓ Describe conduct that, if substantiated, would constitute misconduct as defined by the Act (section 77 sets out 13 separate categories of misconduct);
- ✓ Be filed within 12 months of when the alleged misconduct occurred; and
- ✓ Not be frivolous or vexatious in nature.

Since March 31st, 2010, OPCC analysts have reviewed **477** registered complaints. **270** were determined to be admissible and forwarded to the police department's Professional Standards Section. **207** were not admissible for the following reasons:

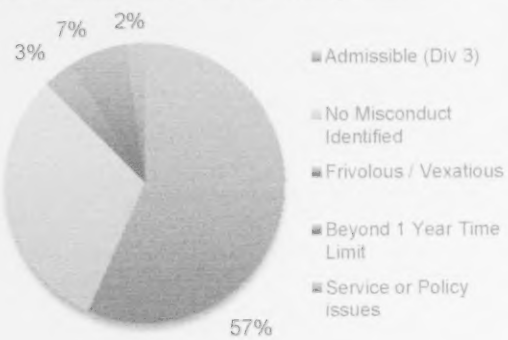
147 Failed to identify any misconduct

32 Filed after the 12 month limit

17 Frivolous/vexatious

10 Deemed admissible under a different area of the Act - Division 5 – Service or Policy issues

1 Withdrawn prior to determination of admissibility



Files Concluded in 2010

Files Concluded (January 1, 2010 to December 31, 2010)						
Dept	**2010**	**2009**	**2008**	**2007**	**2006**	**2005**
Abbotsford	56	24	21	34	13	11
Central Saanich	7	5	4	2	4	4
BCCFSEU	1	0	1	0	0	1
Delta	60	21	21	20	14	11
Nelson	5	5	7	8	1	8
New Westminster	49	29	36	17	24	21
Oak Bay	13	3	2	3	3	4
Port Moody	20	3	4	4	5	2
Saanich	50	40	32	24	32	32
SCBCTAPS	36	34	11	17	3	n/a
Stl'atl'imx	1	0	1	0	1	0
Vancouver	489	221	209	278	273	183
Victoria	160	98	93	66	100	88
West Vancouver	29	21	17	20	9	16
TOTAL:	**976**	**504**	**459**	**493**	**482**	**381**

In 2010, OPCC analysts concluded **976** files. All complaint files are reviewed and broken down into its individual allegations against individual officers; therefore a single complaint file will often contain multiple allegations against more than one officer. As a result, those 976 complaint files required the analysts to review **1,046** allegations (including Non-Registered, Non-Lodged allegations and Monitor files).

Allegations of misconduct against an officer may result in one or more of the following outcomes:

Withdrawn — *A Complainant may withdraw his/her complaint at any time in the process; however, the Commissioner may direct that the investigation continue if it is determined it is in the public interest to do so.*

Informally Resolved — *A complaint may be informally resolved pursuant to Division 4 of the Police Act. Both parties must sign a Consent Letter outlining the agreement and both parties have 10 business days in which to change their mind. The OPCC reviews all informal resolutions and if the Commissioner determines it is not appropriate or inadequate, the resolution is set aside and the investigation continues. Under the previous legislation, once an informal resolution was agreed upon by the respondent officer and the complainant, the Commissioner did not have the authority to review the agreement or have it set aside.*

Mediated — *A complaint may be resolved through mediation, facilitated by a professional mediator. If no agreement can be reached, the investigation continues. Amendments to the legislation provide the Commissioner the authority to direct a*

Complainant to attend a mediation, and similarly, the Chief Constable may order the member to attend.

Discontinued

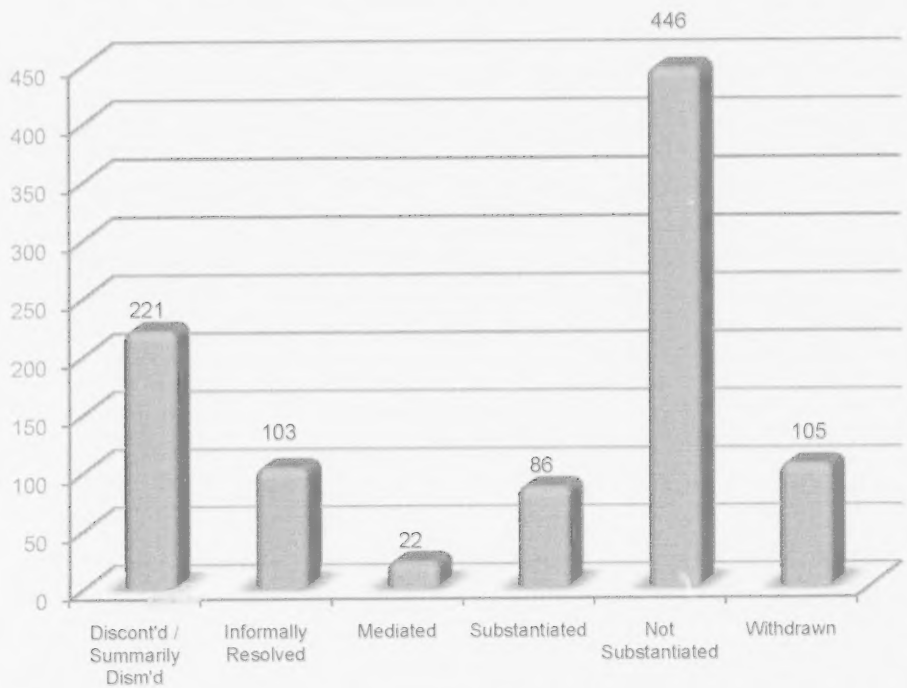
The Commissioner may direct an investigation into allegations of misconduct be discontinued if it is determined that further investigation is neither necessary nor reasonably practical, or if it is found that the complaint is frivolous, vexatious or made knowing the allegations were false. Under the previous legislation, complaints that met any of these criteria were Summarily Dismissed.

Not Substantiated

Following an investigation, the Discipline Authority determines there is no evidence to support the allegation of misconduct. All decisions are reviewed by the OPCC and if it is determined that it is in the public interest to have the decision reviewed, the Commissioner may appoint a retired judge to conduct a review of the investigation and arrive at a decision.

Substantiated

Following an investigation, the Discipline Authority determines the allegation is supported by the evidence. The Discipline Authority must then decide on appropriate disciplinary and/or corrective measures to impose. The member may accept the proposed measures at a Prehearing conference, or the matter may proceed to a discipline proceeding. The Commissioner may, if it is in the public interest, arrange for a public hearing or review on the record by a retired judge. The member also has an automatic right to a public hearing or review on the record if the proposed penalty is a reduction in rank or dismissal.



Between January 1st and December 31st, 2010, the OPCC reviewed and concluded **989** allegations of misconduct against officers.

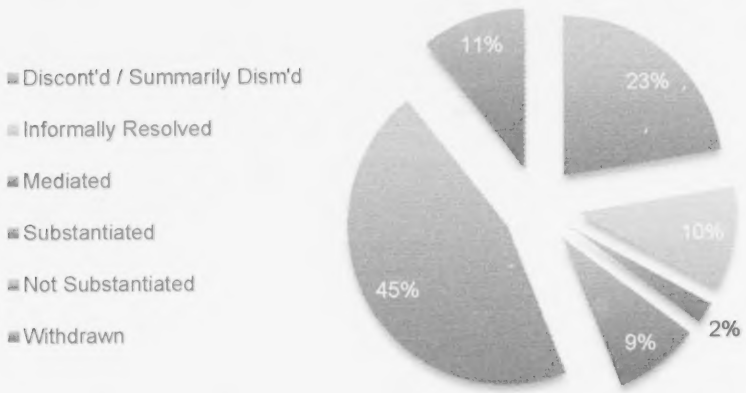
Note: Service or Policy, Monitor or Non-Registered allegations are not included.

* 6 allegations were concluded as "reviewed & closed"

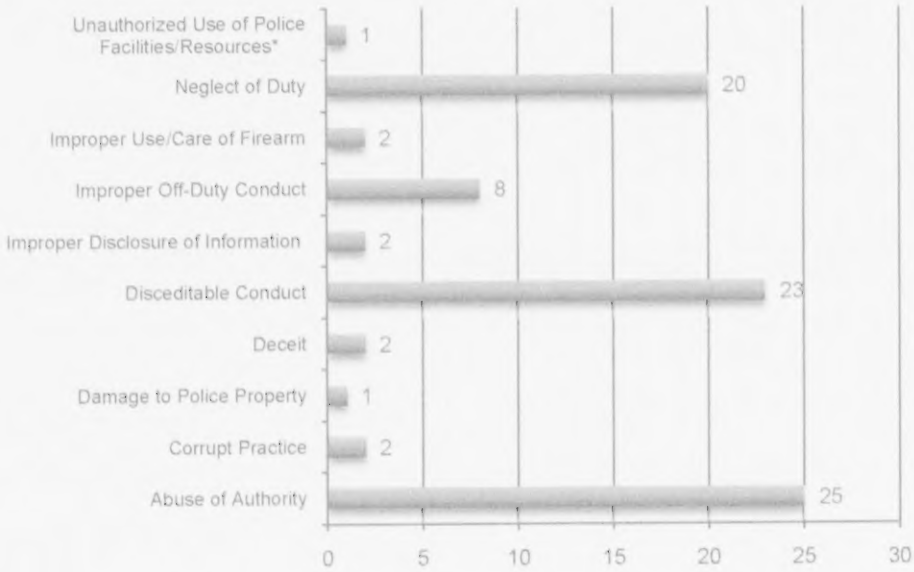
Of the allegations that went to a Discipline Authority for decision, **16%** were substantiated.

Please note this figure was earlier reported as "14%". The correct figure is "16%"

Amended: Oct 3/11



The following are the types of misconduct that were substantiated between January 1st and December 31st, 2010. Please note, the matter was concluded within this time period, but the actual date of the incident may have occurred prior to 2010.



Informal Resolution & Mediation

In addition to conducting full investigations and having a third party arrive at a decision, the *Police Act* offers an alternative method of resolving the issues through formal mediation or an informal resolution process. If the nature of the complaint is appropriate and both parties are willing to participate, the Discipline Authority may propose an informal resolution to the matter. Both the complainant and the member must agree in writing to the proposed resolution and have ten business days in which they may reconsider their decision and revoke their consent. Before any proposed resolution is final, the OPCC reviews the complaint and proposed resolution to ensure it is appropriate to the circumstances.

In 2010, the OPCC reviewed and approved informal resolutions concerning **103** allegations.

Mediation is a process for resolving disputes between a complainant and a member with the assistance of a neutral professional mediator. Complaints that are appropriate for mediation may contain issues more complicated or serious than those informally resolved and require the assistance of a professional mediator to settle the issues collaboratively and on their own terms. This may include the parties meeting face to face during or after the mediation, but this is not necessary. The mediation takes place in a private, non-confrontational setting, where the parties participate in the design of the settlement agreement. The mediator is impartial and trained to help parties arrive at a resolution, but has no decision-making power. The dispute is settled only if all of the parties agree to the settlement.

Surveys submitted by complainants, members and support persons who attended mediations, including those where no agreement could be reached, indicate that **88%** would be willing to attempt mediation for any future complaints.

In 2010, **26** files were approved by the Commissioner to attempt formal mediation. Of those files, **13** files (including all allegations contained within the complaint) were successfully mediated; **12** no agreements could be reached; and there remains **1** that is currently undergoing mediation. **1** mediation conducted under the previous legislation in 2010 was also successful.

Adjudicative Reviews

Under the previous legislation, there was only one avenue for review – a public hearing. The new *Police Act* offers three avenues of review following a Discipline Authority's decision:

Appointment of a New Discipline Authority (s.117)

- If, on review of the Discipline Authority's decision, the Police Complaint Commissioner considers that there is a reasonable basis to believe that it is in the public interest, the Commissioner may appoint a retired judge to act as a new Discipline Authority, review the matter and make a decision.
- Between March 31st and December 31st, 2010, the Commissioner appointed a retired judge to act as a new Discipline Authority on **6** matters.

Review on the Record (s.141)

- The Police Complaint Commissioner may arrange for a review on the record if there is a reasonable basis to believe:

  - the Discipline Authority's findings following a discipline proceeding are incorrect, or
  - the corrective and/or disciplinary measures proposed by the Discipline Authority are not in compliance with the Act, or
  - it is in the public interest to arrange a review on the record.

  A retired judge is appointed as an adjudicator to review the disciplinary decision. Generally, a review on the record is a "paper" review without witnesses being called to testify.

- To date, there have been no reviews on the record.

All decisions from these three adjudicative avenues are available to the public through the OPCC website at www.opcc.bc.ca. As well, there is a schedule of current public hearings indicating the date and place of the hearings. All public hearings are open to the public to attend.

Public Hearing (s.143)

- The Police Complaint Commissioner may order a matter proceeds to a public hearing if is it determined that, in addition to the above considerations:

  - it is likely that evidence, other than that made admissible at a review on the record, will be necessary to complete a review of the disciplinary decision on a standard of correctness; and
  - a public hearing of the matter is necessary to preserve or restore public confidence in the investigation of misconduct or the administration of police discipline.

  A retired judge is appointed as an adjudicator to preside over the hearing.

- Between January 1st and December 31, 2010, the Commissioner ordered **5** public hearings. To see a schedule of when and where these hearings will take place, please visit the OPCC website.

Substantiated Allegations
(Concluded between January 1st and December 31st, 2010)

Abbotsford	
The officer failed to conduct a thorough search of a female prior to being placed in cells. Default: Neglect of Duty Date of Incident: Aug 7, 2009 OPCC File 2008-4328 / DA File M08-25 Vancouver PSS conducted the investigation	■ Member required to undertake specified training or re-training
Central Saanich	
While off-duty, the officer's personal vehicle was broken into and the officer's badge, identification card, laptop, secure access key fob and police notebook were stolen. Default: Damage to Police Property Date of Incident: May 1, 2009 Ordered Investigation (at request of the dept) OPCC File 2009-4720 / DA File 2009-2060	■ Advice as to future conduct
The officer had used equipment and facilities of a municipal police department for purposes unrelated to the performance of duties as a member	■ Written Reprimand

Default: Unauthorized search of CPIC / PRIME Date of Incident: Jun 1, 2007 – Mar 18, 2010 Ordered Investigation (at request of the dept) OPCC File 2009-4885 / DA File 09-3529 Delta PSS conducted the investigation	
Delta	
The officer failed to properly control his police dog, resulting in the Complainant receiving a dog bite to his upper thigh. Default: Neglect of Duty Date of Incident: June 10, 2009 OPCC File 2009-4706 / DA File D2009-53	■ Written Reprimand
The officer unlawfully searched the Complainant's vehicle. Default: Abuse of Authority Date of Incident: Jan 15, 2009 OPCC File 2009-4530 / DA File D2009-13	■ Verbal Reprimand
The officer conducted an unlawful search of the complainant's motor vehicle and used offensive and abusive language towards the complainant. Default: Abuse of Authority Discreditable Conduct Date of Incident: Nov 3, 2008 OPCC File 2008-4422 / DA File D2008-12	■ Member required to participate in "Search & Seizure" training ■ Managerial Direction
The officer conducted an unlawful search of the complainant's motor vehicle, but was directed to do so by a senior officer. Default: Abuse of Authority Discreditable Conduct Date of Incident: Jan 17, 2009 OPCC File 2009-4531 / DA File D2009-14	■ Advice as to future conduct
Officers failed to fully investigate a 215 MVA offence involving another member. Default: Neglect of Duty Date of Incident: Jan 31, 2009 Ordered External Investigation (initiated by PCC) OPCC File 2009-4654 / DA File D09-6819	■ Written Reprimand

While off-duty, the officer was involved in a minor MVA and was issued 24 hour driving suspension. Default: Improper Off-Duty Conduct Date of Incident: Jan 31, 2009 Ordered Investigation (at request of the dept) OPCC File 2009-4525 / DA File D09-12	■ 2 Day Suspension without pay ■ Direction to attend professional counselling
The officer pointed his service firearm, without lawful authority, at a driver during a traffic dispute. Default: Abuse of Authority Date of Incident: May 29, 2009 OPCC File 2009-4675 / DA File D09-49	■ Written Reprimand
Officer #1, while off duty, failed to report to the police a domestic assault of which he had knowledge. Officer #2, while on duty, also failed to report the domestic assault. Officer #2 further failed to provide an accurate account of his attendance at the residence as requested by the investigator until ordered to do so by a senior officer. Default: Discreditable Conduct (x3) Neglect of Duty Date of Incident: Dec 15, 2008 Ordered Investigation (at request of the dept) OPCC File 2009-4490 / DA File D2009-03	▪ Officer #1 (Discreditable Conduct) – 1 day suspension without pay ▪ Officer #2 (Discreditable Conduct) – Written reprimand & Advice as to future conduct ▪ Officer #2 (Neglect of Duty) – Written Reprimand
Nelson	
The officer failed to provide the complainant with access to counsel after he had been arrested for being in a state of intoxication in a public place. Default: Discreditable Conduct Date of Incident: Feb 23, 2008 OPCC File 2008-4213 / DA File V09-064	■ Member required to participate in a specified program or activity ■ Advice as to future conduct
New Westminster	
The officer had improperly released a text page from a PRIME file to a private citizen without lawful authority and contrary to departmental policy. Default: Improper Disclosure of Information Date of Incident: July 2, 2008 Ordered Investigation (at request of the dept)	■ Advice as to future conduct

OPCC File 2009-4741 / DA File 09-033-PSU	
Photographs posted on the officer's Facebook webpage depicted the officer wearing a RCMP hat, standing next to an unknown male wearing a Municipal Police Department dress uniform jacket. Other photographs showed the same unknown male, wearing a Municipal Police Department dress uniform jacket holding a handgun in his left hand with the muzzle pointed toward his head. Default: Improper Off-Duty Conduct Date of Incident: July, 2009 Ordered Investigation (at request of the dept) OPCC File 2009-4748 / DA File 2009-34-PSU	■ Advice as to future conduct
The officer, while off-duty but driving a police department vehicle, was involved in a single vehicle accident and arrested for impaired driving. Default: Improper Off Duty Conduct Date of Incident: Oct 16, 2008 Ordered Investigation (at request of the dept) OPCC File 2008-4400 / DA File 08-045-PSU	■ Reduction in Rank (24 months – 1st 6 months at the 3rd Class Cst rank, followed by 18 months at rank of 2nd Class Cst) ■ Suspended without pay (4 days) ■ Direction to undertake professional counseling
The officer entered the complainant's residence without authority and served a subpoena. Default: Discreditable Conduct Date of Incident: Jul 18, 2009 OPCC File 2009-4769 / DA File 2009-036-PSU	■ Verbal reprimand ■ Member required to participate in remedial legal training
(1) Two officers unlawfully entered and searched a suspect's residence; *(2) One officer failed to submit a Return to Justice justifying his grounds for entry after the fact; and* *(3) Both officers failed to properly account for the circumstances of the entry and search in the PRIME police report.* Defaults: Discreditable Conduct (1) Neglect of Duty (2 & 3) Date of Incident: Feb 25, 2008 Ordered Investigation (at request of the dept) OPCC File 2008-4412 / DA 08-031-PSU	■ (1) Both officers received a 1 day suspension without pay ■ (2) Written Reprimand ■ (3) One officer received a Written Reprimand; One officer received a 2 day suspension without pay

Port Moody	
The officer did not have sufficient or lawful grounds upon which to arrest the complainant. Default: Abuse of Authority Date of Incident: Sept 6, 2008 OPCC File 2008-4368 / DA File 08-C-07	■ Verbal reprimand
The officer unlawfully arrested and detained the complainant. Default: Abuse of Authority Date of Incident: Nov 17, 2008 OPCC File 2009-4940 / DA File 09-C-05	■ Written Reprimand ■ Training (Legal Update Training session)
Saanich	
The officer failed to attend a scheduled traffic court appearance. Default: Neglect of Duty Date of Incident: Nov 10, 2009 Form 1 by Department OPCC File 2009-4942 / DA File 2009-58	■ Managerial Direction
On 12 separate occasions, the officer had conducted unauthorized searches in a police database (PRIME) Default: Discreditable Conduct Dates of Incident: June 6 – 8, 2009 Form 1 by Department OPCC File 2009-4707 / DA File 2009-21	■ Suspended without pay (1 day)
The officer inaccurately reported that he had interviewed specific witnesses in relation to a file when he had not. Default: Neglect of Duty Date of Incident: Mar 19, 2010 Ordered Investigation (at request of the dept) OPCC File 2010-5284 / DA File 2010-31	■ Member required to work under close supervision for a period of 3 – 6 months
The officer failed to properly secure his firearm at his residence. Default: Improper Use or Care of Firearm	■ Verbal Reprimand

Date of Incident: Feb 9, 2010 Form 1 filed by Dept OPCC File 2010-5061 / DA File 2010-08	
The officer used the Canadian Police Information Centre (CPIC) for purposes unrelated to the performance of her duties as a police officer. Default: Discreditable Conduct Date of Incident: March 3, 2010 Form 1 filed by Dept OPCC File 2010-5096 / DA File 2010-16	▪ Advice as to future conduct
SCBCTAPS	
The officers failed to provide medical treatment to the complainant after he sustained injuries while being arrested. Default: Neglect of Duty (x2) Date of Incident: August 8/09 OPCC File 2009-4857 / DA File 2009-030	Officer #1: ▪ Member required to undertake specified training or re-training ▪ Advice as to future conduct Officer #2: ▪ Officer resigned / retired prior to the completion of the complaint process*
The officer used unnecessary force while arresting the complainant, causing him to fall to the ground, injuring his shoulder. Default: Abuse of Authority Date of Incident: August 8/09 OPCC File 2009-4857 / DA File 2009-030	▪ Officer resigned / retired prior to the completion of the complaint process*
The officer failed to properly dispose of a can of bear spray seized from the complainant. Default: Neglect of Duty Date of Incident: Dec 1, 2009 OPCC File 2009-4977 / DA File 2010-003	▪ Written Reprimand
Vancouver	
The officer did not have reasonable and probable grounds to search the complainant. Further, it was found that the officer failed to adhere to the department's policies and procedures. Defaults: Abuse of Authority Discreditable Conduct Date of Incident: July 21, 2008 OPCC File 2008-4307 / DA File 08-138626	▪ Additional training (remedial legal training re Search & Seizure) ▪ Additional training (refresher training re departmental policies & procedures)

While dealing with the complainant, the officer used inappropriate language. Default: Abuse of Authority Date of Incident: May 22, 2009 OPCC File 2009-4667 / DA File 2009-92289	■ Managerial Direction
The officer was rude and discourteous towards the complainant following a traffic court hearing. Default: Abuse of Authority Date of Incident: Nov 21, 2008 OPCC File 2009-4641 / DA File 2009-78526	■ Managerial Direction
An off-duty police officer was stopped for driving erratically and was issued a 24-hour driving suspension. It was found that the on-duty officer who conducted the stop gave preferential treatment to the off-duty officer by not demanding a breath sample for impaired driving. Default: Neglect of Duty Date of Incident: Oct 12, 2008 PCC directed Ordered External Investigation by RCMP OPCC File 2009-4653 Original Investigation 2008-4398	■ Managerial Direction
The officer, while off-duty, received a 24-hour driving prohibition. Default: Improper Off Duty Conduct Date of Incident: Oct 12, 2008 Ordered Investigation at request of the department OPCC File 2008-4398 / DA File 08-199200	■ 2 day suspension without pay *Originally DA imposed a Verbal Reprimand & Direction to undertake Counseling. OPCC requested they reconsider the penalty*
The officers unlawfully detained and strip searched the Complainant. Default: Abuse of Authority (x2) Date of Incident: June 12, 2008 OPCC File 2008-4260 / DA File 08-113998	■ Written Reprimand ■ Remedial training

The officer, while off-duty, was stopped and charged with impaired driving. Default: Improper Off-Duty Conduct Date of Incident: November 16/08 Ordered Investigation (at request of the dept) OPCC File 2008-4431 / DA File No. 08-222159	■ Member suspended for 4 days without pay
The officers, without lawful authority, had taken a photograph of a prisoner. Default: Abuse of Authority Date of Incident: Nov 14, 2006 Ordered Investigation (at request of the Dept) OPCC File 2006-3517 / DA File No. 06-244633	■ Verbal Reprimand (Officers #1 & #2) ■ 1 Day Suspension without pay (Officer #3) ■ 3 Day Suspension without pay (Officer #4)
The officer's issued firearm accidentally discharged during an arrest. Default: Improper Use or Care of Firearm Date of Incident: May 23, 2009 Ordered Investigation (at request of the Dept) OPCC File 2009-4672 / DA File No. 09-87410	■ Member was directed to participate in remedial firearms training
The officer failed to adequately to document/notify the complainant that the charges were not proceeding. Default: Neglect of Duty Date of Incident: Aug 21, 2007 OPCC File 2009-4665 / DA File No. 09-87897	■ Advice as to future conduct
The officer, while driving off-duty, was stopped and issued 24 hour driving suspension. The officer also displayed his badge with the intention of receiving preferential treatment. Default: Discreditable Conduct (x2) Date of Incident: Jun 21, 2009 Ordered External Investigation (initiated by the PCC) OPCC File 2009-4716 / DA File No. M09-36 Abbotsford PSS conducted the investigation * S 117 review by Pitfield, J.	■ Written Reprimand ■ Advice as to future conduct
The officer was convicted of impaired driving while off-duty. Default: Improper Off-Duty Conduct	■ 2 Day Suspension without pay

Date of Incident: Aug 30, 2009 Ordered Investigation (at request of the Dept) OPCC File 2009-4841 / DA File No. 09-154884	
The officer disobeyed the Emergency Vehicle Driving Regulations by failing to conduct an ongoing risk assessment during a pursuit. The officer further failed to comply with the terms of the department's Pursuit Pilot Project and the requirements of the Pursuit Termination Tactics. Defaults: Discreditable Conduct Neglect of Duty Date of Incident: Aug 5, 2008 Ordered Investigation at the request of the dept OPCC File 2008-4329 / DA File 08-151370	▪ 4 - day suspension without pay ▪ 4 – day suspension without pay
The officer's testimony in Court fell short of the department's acceptable standard. Default: Neglect of Duty Date of Incident: Feb 11, 2008 Ordered Investigation at the request of the dept. OPCC File 2009-4776 / DA File 2009-118623	▪ Written Reprimand
Victoria	
The officer had acted in a manner likely to discredit the department by disclosing confidential material to a third party and further, by attempting to release information to a third party without authorization. Defaults: Discreditable Conduct Improper Disclosure of Information Date of Incident: Oct 2007 Ordered Investigation at Request of Dept External Investigation by the APD & DPD OPCC File 2008-4381 / DA File 2008-4176	▪ Officer resigned / retired prior to the completion of the complaint process* Proposed discipline – Reduction in Rank
The officer was found to be in possession of questionable electronic images, many of teenaged girls, and that the officer had used computer software belonging to the department. It was further found that the officer had, for purposes unrelated to his duties as a police officer, conducted queries on police databases. Default: Improper Off-Duty Conduct (x2) Corrupt Practice (x2) Ordered Investigation (Initiated by PCC)	▪ Officer resigned / retired prior to the completion of the complaint process*

OPCC File 2009-4606 / DA File V09-32	
The officer used excessive force by striking a male while issuing a ticket for consumption of liquor in public. Default: Abuse of Authority Date of Incident: Oct 20, 2009 Ordered Investigation (at request of the dept) OPCC File 2009-4919 / DA File No. 09-109	■ 2 Day Suspension without pay ■ Member directed to participate in remedial training on use of force
The officer unlawfully arrested the complainant and in doing so used excessive force, a knee strike to the head area. Default: Abuse of Authority (x2) Date of Incident: December 27, 2008 OPCC File 2009-4488 / 2009-006	■ Written Reprimand ■ Retraining in the use of force as it pertains to operating in concert with other officers attempting to tactically takedown a subject who is under arrest. In addition retraining to occur with respect to making assessments of whom actively constitutes threats to public or officer safety. ■ Retraining with respect to the powers of arrest and the limitations to that power under BC law as it applies to a person being intoxicated in a public place
West Vancouver	
The officer's conduct with respect to another officer was inappropriate. Default: Abuse of Authority Date of Incident: August 2009 OPCC File 2009-4862 / DA File 2009-14241 Internal Discipline	■ No discipline or corrective measures warranted**
The officer used excessive force when dealing with the Complainant, causing him to fall to the ground. Default: Abuse of Authority Date of Incident: April 10/09 OPCC File No. 2009-4608 / DA File 2009-4370	■ Member required to undertake specified training or re-training ■ Written reprimand

The officer failed to conduct a timely investigation and seize evidence before it was destroyed. Default: Neglect of Duty Date of Incident: Apr 2009 Ordered Investigation (at request of the Dept) OPCC File 2009-4663 / DA File No. 09-6059	■ 2 Day Suspension without pay ■ Member required to work under close supervision for a period of 6 months
During an arrest, the officer used excessive force by striking the complainant with palm strikes to the head area and the use of his police dog resulting in bite wounds to the complainant's legs. Default: Abuse of Authority (x2) Date of Incident: June 19, 2009 OPCC File 2009-4718 / 09-7970 Went to s.117 review (Preston) and concluded at PHC	■ Refresher training with respect to officer safety and tactical consideration when encountering resistant subjects; ■ Ongoing re-certification training in the handling of a police service dog; and ■ Verbal Reprimand

* *Under the former legislation, there were no provisions to continue with a complaint against a member who had retired or resigned prior to the completion of the proceedings. The new legislation allows the process to continue with respect to officers who, at the time of the incident in question, were sworn officers but has since resigned or retired.*

** *The former legislation permitted the Discipline Authority to substantiate an allegation of misconduct, but not impose discipline or corrective measures. The new legislation requires the Discipline Authority to impose at least one of the measures as defined by the Act, the lowest being "Advice as to future conduct".*